

# EXHIBIT

## A

# EARLY VOTING BALLOT BOARD

## Handbook for Election Judges and Clerks

2016

(Updated September 2016)

FOR USE IN GENERAL, PRIMARY, AND  
OTHER POLITICAL SUBDIVISION ELECTIONS



### Issued by

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Note: All references to primary elections are italicized.

## CHAPTER 1

### THE EARLY VOTING BALLOT BOARD CONVENES

#### SECTION A. CONVENING THE EARLY VOTING BALLOT BOARD

1. The Early Voting Ballot Board (the “Board”) generally meets twice during an election. First, the Board meets to qualify ballots by mail on election day or after the last day to vote early by personal appearance. Second, the Board meets after election day to review any provisional ballots and to qualify any mail-in ballots received by the 5<sup>th</sup> day after the election from voters casting a ballot from outside the country.
2. Convening the Board on election day or after early voting by personal appearance ends.

Except as provided below, the Board may meet to qualify and accept ballots at any time after the end of the early voting by personal appearance, but may not count votes until the polls open on election day. [Secs. 87.024-87.0241]

#### NOTES:

- In elections conducted by a county with a population of 100,000 or more and elections held jointly with such a county, the Board may meet to qualify and accept voted mail ballots beginning the end of the 9<sup>th</sup> day before the last day of the period of early voting. **NEW LAW:** Senate Bill 383, (84th Legislature).
  - At the direction of the presiding judge of the central counting station, the Board may deliver electronic early voting ballots to the central counting station for early counting after the end of the early voting period, but in no event may early voting results be released until the close of polls on election day. [Sec. 87.0241].
3. Signature verification committee [Sec. 87.027]
    - a. If a signature verification committee is appointed, the early voting clerk delivers jacket envelopes to the committee instead of the Board.
      - (1) May deliver only during hours of operation of the committee.
      - (2) Times of delivery must be scheduled in advance.
      - (3) Notice of time of delivery must be posted continuously for two days before delivery.
      - (4) Committee may also request other documentation with the voter’s signature from the voter registrar.
      - (5) Committee may also request voter registration applications for purposes of comparison to determine if the signatures are those of the same person. Voter registration applications may be used to confirm that the signatures are those of the same person but may not be used to determine that the signatures are not those of the same person.

**Note:** When there is no signature verification committee, the Board is not limited to the voter registration application to confirm signatures. The Board may compare signatures with any two or more signatures of the voter made within the preceding six years and on file with the voter registrar. However, the Board is still prohibited from using the additional signatures to determine the signatures are not from the same person. [Sec. 87.041(c)]

## b. Function of committee.

- (1) Compares signatures on applications and corresponding carrier envelopes only to determine that the signatures on these documents are of the same person. [Sec. 87.027(i)]. The signature verification committee may use electronic copies of the mail ballot application and carrier envelope certificate for comparing signatures.
- (2) Places carrier envelopes and applications that are the signatures of the same person in one container and those that are not of the same person in another separate container.
- (3) Committee chair delivers sorted materials to the Board as directed by the presiding judge of the Board.
- (4) If the signature verification committee has decided that the signatures are from the same person, the Board may not make a different determination. If the signature verification committee has decided that the signatures are not from the same person, the Board may make a determination that the signatures are of the same person by a majority vote of the Board. [Sec. 87.027(j)]
- (5) A determination that signatures are not from the same person must be made by a majority vote of the committee or subcommittee as applicable. If the early voting clerk has designated subcommittees within the signature verification committee, the subcommittee makes its signature determinations by a majority vote of the subcommittee members. [Sec. 87.027(l)]
- (6) The Board makes a determination if the signature verification committee cannot determine whether the signatures are made by the same person.

## 4. Convening the Board after election day.

- a. The Board cannot convene until the 6th calendar day after an election because voters who failed to submit an acceptable form of photo identification and did not have a reasonable impediment or difficulty to doing so (including if the voter did not provide a form of supporting documentation in connection with a reasonable impediment declaration) at the polling place have 6 calendar days to: (1) present to the voter registrar an acceptable form of photo identification, (2) complete one of the curing affidavits (consistent religious objection to photographs or identification destroyed or inability to access acceptable photo identification due to declared natural disaster), or (3) apply for and receive a disability exemption, where applicable.
- b. In an election held on the date of the general election for state and county officers, the Board must convene no later than the 13th day after the date of the election to count provisional ballots.
- c. In all other elections held on dates other than the date of the general election for state and county officers, the Board must convene no later than the 9th day to complete the review of provisional ballots. **NEW LAW:** Senate Bill 1703, (84th Legislature).
- d. The Board shall convene on the 9th day after election day or earlier if the early voting clerk certifies that all ballots from outside of the U.S. have been received and all provisional ballots have been processed by the voter registrar. [Sec. 87.125] If this date falls on a Saturday, Sunday, or legal state or national holiday, the Board convenes on the next regular business day. [Sec. 87.125(c)]. **NEW LAW:** Senate Bill 1703, (84th Legislature).
- e. *For Primary and Primary Runoff Elections-not earlier than 6 p.m. on the second Tuesday or later than 1 p.m. on the second Friday after election day at the hour specified by the county chair.*

**NOTE:** From time to time, the office of the Secretary of State will amend this time period by administrative rule. See T.A.C. Sec. 81.33.

SEE CHAPTER 5 FOR RECONVENING OF BALLOT BOARD FOR THE PROCESSING AND COUNTING OF PROVISIONAL AND OVERSEAS LATE BALLOTS.

**SECTION B. DELIVERY OF MATERIALS TO THE BOARD**

1. The board should obtain from the authority conducting the election a package of supplies, including the following forms:
  - a. Oath of Election Judges and Clerks; [Sec. 62.003]  
"I swear (or affirm) that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or measure to be voted on, and that I will faithfully perform my duty as an officer of the election and guard the purity of the election."
  - b. Poll List of Early Voting by Mail Voters or Voters Voting by Mail Procedure; [Sec. 87.021]
  - c. List of Early Voting Provisional Voters; [T.A.C. Sec. 81.172 – 81.174]
  - d. List of Provisional Voters Who Presented Proper Identification to Voter Registrar; [Sec. 65.0541]
  - e. Envelope for Rejected Early Voting Ballots; [Sec. 87.043]
  - f. Tally Sheets; [Sec. 65.004]
  - g. Return Sheets; [Sec. 65.014]
  - h. Envelopes for distribution of returns and election records; [Sec. 66.003]
  - i. Statement of Compensation; [Sec. 32.094]
  - j. List of "ID" Voters; and
  - k. Notice of Delivery of Ballots Voted by Mail (if delivered prior to the opening of the polls).
2. The early voting clerk delivers to the board:
  - a. Each ballot box containing ballots voted by personal appearance;
  - b. List of Declared Write-In Candidates (if applicable);
  - c. The early voting clerk's key to each ballot box;
  - d. The jacket envelopes containing ballots voted by mail and the corresponding applications;
  - e. The list of registered voters, containing voters' permanent and mailing addresses of record, used in conducting early voting;
  - f. Notice of rejection of Early Voted Ballots (to be completed by Judge of Ballot Board);
  - g. The ballot transmittal form for early voted ballots;
  - h. Receipt for each ballot box, to be completed when box received; and
  - i. Container to place ballot envelopes containing a voted ballot, if ballots are to be counted electronically at the central counting station.
3. The custodian of the key to the second lock on the ballot boxes containing ballots voted by personal appearance must deliver his or her key to the presiding officer of the early voting ballot board at his or her request if the Board will be hand counting personal appearance ballots. [Sec. 87.025]
4. If ballots will be counted electronically at the central counting station, then:
  - The key and the unopened ballot box should be delivered to the central counting station at the direction of the presiding judge of the central counting station, since the law prohibits the ballot board judge

from opening the early voting by personal appearance ballot boxes containing ballots that are to be counted by automatic tabulating equipment at a central counting station. [Sec. 87.101]

- If accessible voting equipment (such as direct record electronic equipment (“DREs”)) or precinct count optical scan equipment was used for early voting, the ballot board should not process the early voting by personal appearance ballot boxes or voting machines.

5. The custodian of the key is:

- for county elections, the county sheriff, unless the sheriff is on the ballot, in which case the key is kept by the county judge. If both the sheriff and the county judge are on the ballot, the key is kept by the county auditor, or if there is no county auditor, by a member of the commissioners court, named by the court, who is not on the ballot.
- for city elections, the chief of police or city marshal.
- for elections of other political subdivisions, the constable of the justice precinct in which the office of the political subdivision's governing body is located, or if there is no constable in that precinct, the sheriff. [Sec. 66.060(a)]

6. Notice of each delivery to be made prior to the time the polls open on election day must be posted at the main early voting polling place for at least 24 hours immediately preceding the delivery. [Secs. 87.023(b), 87.024(b)]

7. In the general election for state and county officers, if ballots are to be delivered before election day, the early voting clerk must notify the county chair of each political party with a nominee on the ballot at least 24 hours before the first delivery is made. [Secs. 87.023(c), 87.024(c)]

### **SECTION C. RECEIPT FOR DELIVERY**

1. Upon delivery of a sealed early voting ballot box, the presiding judge of the early voting ballot board must inspect the box to determine whether the seals on the box are intact, and whether the numbers on the seals correspond to the numbers indicated on the record of serial numbers prepared by the early voting clerk. [Secs. 87.062(b), 127.068]
2. If the seals are intact and the numbers match, the presiding judge should accept the ballot box and so indicate on the receipt.
3. If the seals are not intact or the numbers do not match, the presiding judge should accept the ballot box, but note any discrepancies on the receipt and in his or her records.

**NOTE:** Certain types of transfer cases used with certain electronic voting systems do not have an ordinary slot for the ballots; rather, the opening is covered by a sliding panel that can be locked. In these cases, the Secretary of State's office recommends adapting the rule for the daily numbered paper seals, by using an additional numbered wire hasp seal, whose number is recorded each day.

### **SECTION D. SECURITY OF EARLY VOTING BALLOTS**

1. The voted early voting ballots must be secured from the last day of voting by personal appearance at a polling place until the day the ballots are counted. [T.A.C. Sec. 81.34]
  - a. If the early voting ballot board convenes before election day, the presiding judge shall, upon each adjournment of the board, lock and seal each ballot box prior to delivering the boxes back to the custodian of records. The judge shall complete a ballot box security form indicating each serial number used to seal each box. The form shall be signed by the judge and another early voting ballot board member who has witnessed the procedure. In a general election for state and county officers, the early voting ballot board

member must be from a different political party than the judge. The custodian of records shall also sign the form.

**NOTE:** For political subdivisions using electronic ballots tabulated at a central counting station, ballot box(es) containing early voting ballots cast in person are not opened until the box(es) are delivered to the central counting station's presiding judge. [Sec. 127.066]

- b. The presiding judge shall deliver the key(s) used to lock the ballot box(es) to the custodian. The key shall be retained by the authority designated in accordance with Section 66.060(a) of the Code:
  - (1) the sheriff for an election ordered by the governor or county authority or *a primary election*, except that in a year when the office of sheriff is on the ballot, the key shall be delivered to the county judge. When both these offices are on the ballot, the key shall be delivered to the county auditor or to a designated member of the commissioners court who is not on the ballot and who is appointed by the court, if the county does not have an auditor;
  - (2) the chief of police or city marshal for an election ordered by a city authority; or
  - (3) the constable of the justice precinct in which the office of the political subdivision is located, or if the office of constable is vacant, the sheriff of the county in which the political subdivision is located if the election is ordered by an authority of a political subdivision other than a city or county.
- c. Upon reconvening the ballot board, the presiding judge shall ensure that each ballot box is intact. The presiding judge shall follow these procedures each day except upon final delivery to the custodian of records or delivery to the central counting station.
- d. If it is impracticable for the ballot board judge to deliver the ballot boxes each day upon adjournment, the authority conducting the election shall submit an alternate security procedure to the Secretary of State for approval.



## **CHAPTER 2**

### **QUALIFYING BALLOTS VOTED BY MAIL OR VOTED USING MAIL PROCEDURES**

#### **SECTION A. TYPES OF EARLY VOTING BALLOT APPLICATIONS**

The early voting ballot board may encounter several types of applications for early voting ballots. They include:

1. The “Application for Ballot by Mail” prescribed by the Secretary of State. [Secs. 84.001(a), 84.011]
2. An informal application for a ballot by mail, which is a written request by the applicant that is not made on the official application form prescribed by the Secretary of State. This application must comply with the statutory requirements for applying for a ballot by mail. [Sec. 84.001(c)]
3. The “Application for Limited Ballot” prescribed by the Secretary of State. [Sec. 112.005]
4. The “Federal Post Card Application” used by military and overseas citizen voters. [Sec. 101.003]
5. The “Application for Presidential Ballot” prescribed by the Secretary of State (only applicable in elections held in November of the presidential election year). [Sec. 113.003]
6. The “Application for Emergency Late Ballot Due to Sickness or Physical Disability” prescribed by the Secretary of State. [Sec. 102.002]
7. The “Application for Emergency Late Ballot Due to Death” prescribed by the Secretary of State. [Sec. 103.002]
8. The “Affidavit for Voting at Main Early Voting Place on Election Day” prescribed by the Secretary of State for voting by disabled voters when electronic voting equipment is being used at the precinct polling place. [Sec. 104.002]

#### **SECTION B. VALID REASONS FOR VOTING EARLY BY MAIL**

Only the following persons may vote early by mail:

1. Persons who are 65 years of age or older on election day. [Sec. 82.003]
2. Persons who have a sickness or physical condition that prevents them from appearing at the polling place on election day without a likelihood of needing personal assistance or injuring their health. Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote early by mail on the ground of disability. [Sec. 82.002]
3. Persons who are confined in jail at the time application must be either:
  - a. serving a misdemeanor sentence that ends on or after election day; or
  - b. pending trial or appeal after denial of bail or if release on bail is unlikely until after election day. [Sec. 82.004]
4. Persons who expect to be absent from the county on election day and during regular early voting hours for that part of the period for early voting remaining after the application is made. [Sec. 82.001] If this reason for voting early is checked, the address to which the ballot was mailed must be an address outside the county. [Sec. 86.003(c)(1)]
5. Persons who are certified for participation in the address confidentiality program.
  - a. An application for ballot by mail submitted by a person eligible under Section 82.007 must include:

- i. the name and address at which the person is registered to vote;
  - ii. the substitute post office box designated by the attorney general for the person's use in place of the true residential address; and
  - iii. an indication for each election for which the person is applying for a ballot.
- b. The information on an application for ballot by mail submitted by a voter related to the address at which the voter is registered is confidential, except that it must be disclosed if requested by a law enforcement agency or required under a court order.

### **SECTION C. QUALIFYING EARLY VOTING BALLOTS VOTED BY MAIL**

1. Each jacket envelope will contain:
  - a. an application for an early ballot to be voted by mail (or one of the other application procedures in Section A above that uses mail procedures) [Secs. 86.011(b), (c)]; If FPCA was submitted, jacket envelope must include a copy of the FPCA and the signature cover sheet.
  - b. the envelope in which the application was delivered to the early voting clerk, if applicable; and
  - c. the carrier envelope, which will contain:
    - a ballot envelope with the ballot inside; and
    - statements of residence, copy of identification, or other requested items, if applicable. [Sec. 86.002]
2. Remove the application and carrier envelope from the jacket envelope.
3. Check the voter's application to be sure that it states a legal ground for voting early by mail (See Section B above). [Sec. 87.041(b)(3)]
4. If the reason for voting early by mail is absence from the county, the application must show an address outside the county to which the ballot was mailed. [Sec. 87.041(b)(5)]

**NOTE:** If the application was submitted after the period for early voting by personal appearance began, the application must show that the voter was absent from the county when the application was submitted. A voter checking expected absence from county and providing an out of county address on the official application is sufficient.

5. If the grounds for voting by mail is either being 65 or over, or disability, and the applicant has not provided his or her official mailing address as shown on the list of registered voters as the address for mailing his or her ballot, the address provided must be that of a hospital, nursing home, other long term care facility, retirement center, or the address of a relative within the second degree of affinity or third degree of consanguinity with whom the applicant is living. [Sec. 86.003(c)(3)]
6. If the reason for voting early by mail is confinement in jail, the address to which the balloting materials must be addressed is that of the jail facility or a relative within the second degree of affinity or third degree of consanguinity. [Sec. 86.003(c)(2)]
7. Check to make sure that the address to which the ballot was mailed is one of the following:
  - a. the voter's residence or mailing address indicated on the voter's registration record;
  - b. the facility that the voter is residing at if the voter has indicated on his or her application to vote by mail that the reason for voting is 65 years of age or older or disability and has provided a mailing address that does not match the voter's official residence or mailing address; the facility must be one of the following:
    - (1) hospital;

- (2) nursing home or long-term care facility;
  - (3) retirement center; or
  - (4) relative that is related to the voter by 2<sup>nd</sup> degree of affinity (by marriage) or the 3<sup>rd</sup> degree of consanguinity. Relatives include: parent, child, brother, sister, grandparent, grandchild, great-grandchild, great-grandparent, uncle, aunt, nephew, niece, spouse, spouse's parent, son-in-law, daughter-in-law, brother's spouse, sister's spouse, spouse's brother, spouse's sister and spouse's grandparent.
- c. the jail facility, if the reason for voting by mail is confinement in jail, or the address of a relative listed in Section C. 7. b. above.
  - d. an address outside of the county, if the reason for voting by mail is expected absence from the county.
  - e. the voter's new address as provided on the enclosed statement of residence if the voter has moved within the county but has failed to update his address with the county voter registrar and is having a ballot mailed to a new residence address. [Secs. 84.002, 86.002, 86.003, 87.041]
8. Check the list of registered voters to ensure applicant is a registered voter. [Sec. 87.041(b)(4)]

**Note:** Due to various address confidentiality laws, some voters will not have a residential address next to their name on the list of registered voters.

- a. If an "S" notation appears next to a voter's name on the list of registered voters, or if the residence address on the application for ballot by mail does not match the residence address on the list of registered voters, the carrier envelope will be stamped "STATEMENT ENCLOSED." The voter's ballot may NOT be accepted UNLESS a completed, signed Statement of Residence is included in the carrier envelope. If a completed Statement of Residence is not enclosed, the ballot must be rejected. [Sec. 87.041(b)(6)]
- b. If an "ID" notation appears next to a voter's name on the list of registered voters, the voter's ballot may NOT be accepted unless the voter encloses a copy of one of the acceptable forms of photo identification listed below that establishes the voter's identity:
  - (1) Texas Driver's License issued by the Department of Public Safety ("DPS");
  - (2) Texas Election Identification Certificate issued by DPS;
  - (3) Texas Personal Identification Card issued by DPS;
  - (4) Texas Handgun License issued by DPS;
  - (5) United States Military Identification Card containing the person's photograph;
  - (6) United States Citizenship Certificate containing the person's photograph; or
  - (7) United States Passport

**NOTE:** With the exception of the U.S. citizenship certificate, the identification must be current or have expired no more than 4 years before being presented for voter qualification at the polling place.\*

If the voter cannot obtain, and has a reasonable impediment or difficulty to obtaining one of the above acceptable forms of photo identification, the voter may also enclose a copy of one of the supporting forms of identification listed below that establishes the voter's identity along with a signed statement of reasonable impediment or difficulty (see Form 5-22a) to have the ballot accepted:

- (1) Valid voter registration certificate;
- (2) Certified birth certificate;
- (3) Current utility bill;

- (4) Bank statement;
- (5) Government check;
- (6) A paycheck; or
- (7) Government document with the voter's name and an address (examples of government documents include, but are not limited to: driver's licenses from other states, ID cards issued by federally recognized Native American tribes (if the ID card contains an address), DPS Receipts (without a photo), expired voter registration certificates, and expired Texas DPS-issued driver licenses or personal ID cards (over 4 years)).

**NOTE:** The address on either a supporting form of ID or an acceptable photo identification does not need to match the address on the list of registered voters.

**\*If a voter does not have a valid form of photo identification, they may apply for a free election identification certificate at their local Texas Department of Public Safety office. Reminder: If a voter does not have an acceptable form of photo ID on election day, or does not have a reasonable impediment or difficulty to obtaining an acceptable form of photo I.D., they may vote provisionally.**

**Exemption:** Voters with a disability may apply with the county voter registrar for a permanent exemption. The application must contain written documentation from either the U.S. Social Security Administration evidencing the applicant's disability, or from the U.S. Department of Veterans Affairs evidencing a disability rating of at least 50 percent. In addition, the applicant must state that he or she has no valid form of photo identification. Those who obtain a disability exemption will be allowed to vote by presenting a voter registration certificate reflecting the exemption.

**Provisional Voting:** If voters do not present (1) one of the acceptable forms of identification or (2) for voters who have a reasonable impediment or difficulty to obtaining one of the acceptable forms of identification, one of the supporting forms of identification and execute a Reasonable Impediment Declaration, and the voters do not have a permanent disability exemption indicated on their voter registration certificates, voters may cast a provisional ballot at the polls and will have **six (6) calendar** days after election day to present an acceptable form of photo identification to the county voter registrar. If applicable, voters who have a consistent religious objection to being photographed and voters who do not present an acceptable form of photo identification as a result of certain natural disasters as declared by the President of the United States or the Texas Governor, may vote a provisional ballot, and if they appear at the voter registrar's office within **six (6) calendar** days after election day and sign an affidavit swearing to the religious objection or natural disaster, then their ballot will be counted.

- c. An application from a voter who is accepted into the Address Confidentiality Program must also include their substitute P.O. Box designated by the Attorney General and an indication for each election for which the person is applying for a ballot.
- d. Certain persons may vote even though they are not registered to vote in your county and their names do not appear on your list of registered voters. They are:
  - (1) Persons applying on Federal Post Card Applications. The FPCA may be used by persons who are registered voters of your county or who are not registered voters of your county since the federal post card application acts as a temporary registration pending permanent voter registration status (see note below). [Sec. 101.001]

- (2) Persons applying for limited ballots. A person who moves from one county to another, and the person is either still registered in the former county of residence or was registered in the former county of residence when the person applied to register in the new county of residence. He or she may vote in their new county of residence, on offices or propositions that are on the ballot in both your county and the county of his or her former residence. [Sec. 112.002]
- e. If the voter's name does not appear on the list of registered voters and he or she is not categorized in the group of voters listed in "d" above, the presiding judge must refer to the registration correction list, if provided, to see if the voter's name appears on that form.
9. Check to see that the certificate on the carrier envelope was properly executed. The certificate is the statement the voter signs and may include portions filled out by assistants or witnesses. [Sec. 87.041(b)(1)]
10. Check the signatures of the applicant on the application and on the carrier envelope to confirm that both signatures have been executed by the voter, unless either document was signed by a witness. [Sec. 87.041(b)(2)]

Section 87.041(e) provides that the Board may compare signatures with any two or more signatures of the voter made within the preceding six years and on file with the voter registrar. These additional signatures may be used to confirm that the signatures are those of the same person but may not be used to determine that the signatures are not those of the same person.

11. If there is no signature on the carrier envelope (by voter or witness), the ballot must be rejected (see Section E of this chapter for disposition of rejected ballots). [Sec. 87.041(d)]

**-- EXCEPTIONS:**

- a. If the voter was unable to sign his or her name, the application and/or carrier envelope must each be signed by a witness. Different people may have witnessed the voter's mark on the application and on the carrier envelope. If the voter was unable to sign the application and/or carrier envelope himself or herself and one or both were signed by witnesses, it is not necessary to compare the signatures. [Sec. 87.041(b)(2)]
- b. If the voter applied for an early voting ballot on the Application for Late Emergency Ballot Due to Death or the Affidavit for Voting at Early Voting Place on Election Day, the certificate on the carrier envelope does not need to be signed by the applicant. The carrier envelope will have a notation "103" or "104" written on it by the early voting clerk when the voter applies under these procedures. [Secs. 103.004(c), 104.004(c)]

**NOTE:** A voter's witnessed application or witnessed carrier envelope are not invalid merely because there is no explanation of the voter's inability to make his or her mark. A ballot may not be rejected merely because the voter signed either the application or the carrier envelope and the other document was witnessed.

12. If the voter applied for a ballot on the Application for Late Emergency Ballot Due to Sickness or Disability, the name, address, and signature of the representative who delivered the application to the early voting clerk must appear on the application and on the carrier envelope containing the voted ballot. The same representative who submitted the voter's application must deliver the voter's ballot back to the early voting clerk, and the same representative's name must appear on both the application and the carrier envelope. [Secs. 102.002, 102.004(b), 102.006(a), (b)]
13. Applicants applying for a limited ballot or a presidential ballot must have two applications if voting this procedure by mail (i.e., the application for early ballot by mail and the application for the "restricted" ballot) enclosed in the jacket envelope. [Secs. 111.004, 112.005, 113.003]

**SECTION D. ACCEPTED BALLOTS**

1. If the applicant has met all the requirements discussed above, the ballot must be accepted for voting.
2. Open the carrier envelope without defacing the certificate on the carrier envelope and remove the ballot envelope. [Sec. 87.042(a)]
  - a. A ballot is considered valid even if it is not enclosed in a ballot envelope; the voter simply loses his/her secrecy of the votes cast. [Secs. 86.005(d), 87.042(d)]
  - b. If the front of the carrier envelope has "Statement Enclosed" stamped on it, check to see that the statement of residence form is enclosed. If the applicant's name appears on the list of registered voters with an "S" notation beside it, the applicant is required to complete the statement of residence prior to voting. If the completed, signed statement is not enclosed, the ballot must be rejected. (See Section E of this chapter for disposition of rejected early voting ballots.) [Sec. 87.041(d)]

NOTE: It is the position of the Office of the Secretary of State that the lack of a statement of residence form included in the envelope of an FPCA voter does not result in a rejected ballot since the FPCA would act as a temporary registration that would trump the residence address provided on any previous registration applications already on file.

- c. If the applicant's name appears on the list of registered voters with an "ID" notation beside it, the applicant is required to submit a copy of acceptable photo identification (or, if the voter has a reasonable impediment or difficulty to obtaining an acceptable form of photo ID, the reasonable impediment statement and an acceptable form of supporting documentation, along with their mail ballot).
3. Place the unopened ballot envelope in a ballot box or other safe container. [Sec. 87.042(b)]
 

**NOTE:** If a different method of voting was used for early voting by personal appearance than used for voting by mail or, if ballots will be electronically tabulated at a central counting station, a separate container must be used. [Sec. 87.042(c)]
4. Enter the voter's name on the poll list for early voters voting by mail or list for voters using other mail procedures such as limited ballot. [Secs. 87.041(c); 102.008; 103.005, 104.006]
  - a. If the voter is an FPCA voter, place a check in the "FPCA" column on the poll list next to the voter's name. [Sec. 101.004]
  - b. If the voter applied for a limited ballot, place a check in the column marked "Limited Ballot" on the poll list next to the voter's name. [Sec. 111.008]
  - c. In presidential general elections, if the voter applied for a presidential ballot only, place a check in the column marked "Pres. Ballot" on the poll list next to the voter's name. [Sec. 111.008]
  - d. If the voter is an overseas citizen voter eligible only for a federal ballot, place a check in the column "Overseas Citizen" on the poll list next to the voter's name. (Only applicable in *primary* and general elections for state and county officers since these voters are limited to federal offices only.) [Sec. 111.008]
5. Place the application for the early voting ballot and the envelope that was used to mail the application (if applicable), the carrier envelope, and any accompanying papers back into the jacket envelope. (If the jacket envelope is to be used in a subsequent election, the early voting clerk may provide another envelope to be used in lieu of the jacket envelope.) Place any affidavits, statements of residence, and copies of identification in Envelope No. 4 to be delivered to the Voter Registrar. [Sec. 87.044(a)]



6. At least 10 early voting ballots voted by mail must be qualified before the ballots may be counted. Ballots may be removed for manual, hand counting at any time when there are at least 10 ballot envelopes containing ballots that have been qualified in the ballot box (or other safe container). If ballots are to be counted by electronic equipment, the ballot board judge must transmit the accepted by mail ballots to the presiding judge of the central counting station in a locked and sealed ballot box or other container approved by the Secretary of State.

#### **SECTION E. REJECTED BALLOTS**

1. If the application and carrier envelope do not meet the requirements discussed above, the ballot must be rejected and may not be counted. [Sec. 87.041(d)]
2. Write the word "rejected" on the carrier envelope. [Sec. 87.041(d)]
3. Write the word "rejected" on the corresponding jacket envelope. [Sec. 87.041(d)]
4. Place the unopened carrier envelopes containing rejected ballots in the large envelope or container marked "Rejected Early Voting Ballots." [Sec. 87.043(b)]
5. The "Rejected Early Voting Ballot" envelope must be sealed and signed by the presiding judge, and the date and nature of the election must be written on the envelope. More than one envelope may be used if necessary. Record the number of rejected ballots, which are placed in the envelope for rejected ballots. [Secs. 87.043(a), (b)]
6. If the ballot was rejected after the carrier envelope was opened, the presiding judge should make a note on the carrier envelope of the reason the carrier envelope was opened and then rejected.
7. Place the application, the envelope used to mail the application to the early voting clerk (if applicable), and any accompanying papers or affidavits in the corresponding jacket envelope. (If the jacket envelope is to be used in a subsequent election, the early voting clerk may provide another envelope to be used in lieu of the jacket envelope.) [Sec. 87.044(a)]

**NOTE:** The Early Voting Ballot Board judge must deliver written notice to the voter of the reason for the rejection of his or her ballot no later than the 10th day after election day. [Sec. 87.0431]

## **CHAPTER 3**

### **COUNTING HAND-COUNTED PAPER BALLOTS**

#### **SECTION A. ESTABLISHING THE COUNTING TEAMS**

1. There may be more than one counting team to tally the early voting ballots. [Secs. 81.002, 65.001]
2. Each counting team must consist of two or more early voting ballot board members. [Secs. 81.002, 65.001]
  - a. One member will be designated the reader.
  - b. The reader may also keep a tally list.
  - c. If there are only two members on a team, one member will keep two tally lists, and the reader will keep one tally list in addition to reading the ballots.
3. If there is more than one counting team, after all ballots have been counted, the votes for each candidate and/or proposition must be added together with the tallies of the other counting teams, and the totals must be placed on the return sheet.
4. A member of a counting team may not be replaced after the vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. [Secs. 81.002, 65.006(a)]
5. If a counting member is replaced, he or she must certify the accuracy of the tally list as of the time he or she was replaced. [Secs. 81.002, 65.006(b)]

#### **SECTION B. OPENING THE BALLOT BOX CONTAINING HAND-COUNTED PAPER BALLOTS**

**NOTE:** ELECTRONIC BALLOTS CAST IN PERSON ARE NOT TABULATED BY THE EARLY VOTING BALLOT BOARD.

1. Open the double-locked ballot box containing the ballots voted by personal appearance. [Sec. 87.062]

**NOTE:** The early voting clerk will deliver one key to the ballot box when he or she delivers the ballots. The custodian of the second key will deliver the second key at the time specified by the early voting ballot board's presiding judge. [Secs. 87.021(1), 87.025]
2. After the presiding judge opens the ballot box, the judge shall remove any provisional ballots and verify the number of provisional ballots in the ballot box, which is reflected on the Early Voting List of Provisional Voters.
3. The provisional ballots shall be prepared for delivery to the voter registrar and placed in a closed and sealed box for delivery by the general custodian of election records to the voter registrar. [T.A.C. Sec. 81.174]
4. All early voting ballots must be sorted by precinct before they are counted so that a separate total of early voting votes cast in each precinct may be obtained. [Sec. 87.1231]
5. For political subdivisions using hand-counted paper ballots, early voting ballots cast by personal appearance may be counted while the ballots cast by mail are being qualified if the early voting ballot board consists of enough members.
6. When at least 10 early voting ballots cast by mail have been qualified and placed in the ballot box or other container, the ballot envelopes may be removed from the box or container, opened, the ballots removed, the ballot envelopes discarded, and the ballots counted. This process may be repeated any time there are at least 10 ballot envelopes in the box or container. [Sec. 87.062(a)]



**NOTE:** If there is more than one ballot in a ballot envelope, neither ballot may be counted. The presiding judge must make notation on the back of each ballot of the reason the ballot was not counted. These ballots are then placed with the voted ballots in the early voting ballot box. [Sec. 65.010(a)(2)]

### **SECTION C. RULES GOVERNING THE COUNTING PROCEDURE**

1. The ballots must be counted separately by precinct. [Sec. 87.1231]
2. Three original tally lists are required for each precinct. [Secs. 65.004, 87.1231] A separate page of the same tally book may be used for each precinct's tally list. These tally lists should be completely filled out, and include the following:
  - Names and offices of candidates; and/or
  - Propositions;
  - Date;
  - Precinct number;
  - Type of election;
  - Name of presiding judge; and
  - Signature of the person keeping the tally list.
3. Before the counting begins, the early voting Ballot Box should be inspected to ensure that it is empty. It should then be locked and remain locked (except as authorized by the presiding judge), and within view of the counting officials. [Sec. 65.003(c)]
4. No marks should be made on any ballot by an election official, except that if a ballot is not counted because the judge determines it was not provided by the early voting clerk or because two or more ballots were folded together, an election official must indicate on the back of the ballot the reason for not counting it. [Sec. 65.010(c)]

### **SECTION D. THE COUNTING PROCEDURE**

1. The reader must read and distinctly announce to the officials keeping the tally lists each name of a candidate or proposition for which there is a vote. [Sec. 65.005(a)]
2. The intent of the voter in marking the ballot may be determined by:
  - a. a distinguishing mark adjacent to the name of a candidate or political party or voting choice associated with a proposition;
  - b. an oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
  - c. a line drawn through;
    - (1) the names of all candidates in a manner that indicates a preference for the candidate not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
    - (2) the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
    - (3) a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or

- d. any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition. [Sec. 65.009]
3. As each vote is read, a tally mark is made by the corresponding name or number on the tally lists. [Sec. 65.005(a)]
4. The tally lists should be compared periodically and any errors or discrepancies corrected. [Sec. 65.005(b)]
5. When the reader has completely read and announced all the votes on the ballot, he or she deposits the ballot in the locked early voting ballot box.
6. Any voted ballot that is not counted is also deposited in the box containing the counted ballots. [Sec. 65.012(b)]

**NOTE:** A ballot that was not counted should contain a clear notation on the back that it was not counted to avoid an accidental counting during a recount, etc. [Sec. 65.010(c)]

## **SECTION E. RULES FOR COUNTING MANUALLY-CAST OR HAND-COUNTED OPTICAL SCAN BALLOTS**

(See generally, Chapter 65 and Secs. 64.003-64.006)

1. The voter should mark his or her ballot by placing an "X" or other mark in the square beside each candidate, proposition, or party column for which he or she wishes to vote (See Figure 1). [Sec. 64.003]

<i>(Primary Election Ballot)</i> <div style="text-align: center; margin-top: 10px;"> For Governor  <input type="checkbox"/> Candidate A  <input type="checkbox"/> Candidate B  <input checked="" type="checkbox"/> Candidate C </div>					
--	--	--	--	--	--

  

<i>(General Election Ballot)</i>					
Candidates for	<input type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> Independent	<input type="checkbox"/> Write-In
Governor	<input type="checkbox"/> Candidate A	<input type="checkbox"/> Candidate B	<input checked="" type="checkbox"/> Candidate C		

**Figure 1. Illustrations of marked ballots.**  
**(The asterisks indicate the candidates for whom the ballot is counted.)**

2. Election officials shall not refuse to count a ballot because the voter marked his or her ballot by scratching out the names of candidates for whom, or the statement of propositions for which, he or she did not want to vote (See Figure 2). [Sec. 65.009(b)]

Candidates for	<input type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	* <input type="checkbox"/> Candidate				

Sixth Office	* <input type="checkbox"/> Candidate				
Seventh Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 2. Illustration of the scratch method.**  
(The asterisks indicate the candidates for whom the ballot is counted.)

3. In the general election for state and county officers, if a ballot indicates a straight-party vote and a vote for an opponent of one or more of that political party's nominees, a vote shall be counted for that opponent and for each of the party's other nominees whether or not any of those nominees have received individual votes. [Sec. 65.007(c)] (See Figures 3 and 4).

Candidates for	<input checked="" type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	* <input type="checkbox"/> Candidate				
Sixth Office	* <input type="checkbox"/> Candidate				
Seventh Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 3. Illustration of ballot with one party square marked and individual candidates marked in one or more other columns (“cross over” voting).**  
(The asterisks indicate the candidates for whom the ballot is counted.)

Candidates for	<input checked="" type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	* <input type="checkbox"/> Candidate				
Sixth Office	* <input checked="" type="checkbox"/> Candidate				
Seventh Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 4. Illustration of Guideline No. 1.**  
**One party square marked and individual candidates marked in both that column and one or more other columns (“emphasis” voting and “cross over” voting).**  
(The asterisks indicate the candidates for whom the ballot is counted.)

Guideline No. 1. Where both the party square and individual candidates are marked in the same party column, and individual candidates are marked in some other column, the election official must count a vote for all the party's candidates except for those whose opponents in other columns received individual votes, in which cases the votes for the individuals in the other columns are counted.

**NOTE: Individual marks always override the straight party mark. Individual marks are counted in lieu of straight party marks. In both Figures 3 & 4, individual tally marks are made for candidates rather than making a tally mark for the party.**

4. Ballots not marked in conformity with the law.

- a. A vote must be counted if the intent of the voter is clearly ascertainable. [Sec. 65.009(c)] (See Figure 5).

Candidates for	<input checked="" type="checkbox"/> PARTY A	<input checked="" type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	* <input checked="" type="checkbox"/> Candidate	Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	<input type="checkbox"/> Candidate				
Sixth Office	* <input checked="" type="checkbox"/> Candidate				
Seventh Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 5. Illustration of Guideline No. 2.**

**Two party squares marked and individual candidates also marked in one or more columns.  
(The asterisks indicate the candidates for whom the ballot is counted.)**

Guideline No. 2. Where more than one party square is marked, those votes may not be tallied, and the ballot may be counted only for candidates individually marked, if any. (If there are no candidates individually marked, no portion of the ballot is counted.) [Sec. 65.007(d)]

- b. An entire ballot cannot be voided if the intent of the voter can be determined for any one race or proposition on the ballot. [Sec. 65.009(c)]
- c. An individual vote is not counted in the following situations:
- (1) An individual vote is not counted if the intent of the voter cannot be determined. [Sec. 65.009(c)]
  - (2) An individual vote is not counted if the voter marked more than one candidate for one race ("overvote").

In municipal, school board, or other political subdivision elections where it is possible to vote for more than one candidate in the same race, a ballot may not be counted if a voter has marked more candidates than are to be elected. [Sec. 65.011] A ballot is not invalid if the voter has marked fewer candidates than the number to be elected ("undervote"). [Sec. 65.009]

VOTE FOR NONE, ONE, TWO, OR THREE

- ☒ Candidate
- ☒ Candidate
- ☐ Candidate
- ☐ Candidate
- ☒ Candidate
- ☒ Candidate

**Figure 6. Illustration of overvoting; voter has voted for more candidates than are to be elected. (No portion of this ballot is counted.)**

VOTE FOR NONE, ONE, TWO, OR THREE

- \*☒ Candidate
- ☐ Candidate
- \*☒ Candidate
- ☐ Candidate
- ☐ Candidate
- ☐ Candidate

**Figure 7. Illustration of undervoting; voter has voted for fewer candidates than are to be elected. (A vote is counted for each candidate receiving a vote.)**

- (3) An individual vote is not counted in the following write-in voting situations:
- (a) The voter used a sticker or rubber stamp with the name of a write-in candidate printed or written on it. [Sec. 65.008(b)]
  - (b) *The election is the primary election for the office of precinct chair or county chair, a November general election, city council officer elections, an independent or common school district trustee election, special elections for state representative and state senator, or other elections where declaration of write-in is required and the voter writes in the name of a person whose name is not on the list of declared write-in candidates. [Secs. 144.006, 146.031(d), 146.054, 146.055, 146.082, 171.0231 Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Education Code; Sec. 285.131, Health and Safety Code; Secs. 326.0431 & 326.0432, Local Government Code; Secs. 36.059, 49.101, 63.0945, Water Code]*
  - (c) *The election is a primary and the voter writes in a vote for a candidate for public office; only write-in votes for declared candidates for party officer of county chair and precinct chair may be counted. [Sec. 172.112]*
  - (d) The election is a runoff election and a voter writes in any candidate's name; no write-in votes may be counted at a runoff election. [Sec. 146.002]
  - (e) The voter voted for the presidential candidate of one party and the vice-presidential candidate of another party or voted for the presidential or vice-presidential candidate of one party and wrote in the name of a candidate he or she desires to vote for instead of that candidate's running mate. [Sec. 192.037]

d. A ballot is not counted in the following situations:

(1) A ballot is not counted if the intent of the voter cannot be determined. [Sec. 65.009] (See Figure 8).

Candidates for	<input checked="" type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> <i>John Smith</i>
Fourth Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Fifth Office	<input checked="" type="checkbox"/> Candidate		<input checked="" type="checkbox"/> Candidate		
Sixth Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		
Seventh Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Eighth Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 8. Illustration of lack of knowledge of intent of voter.  
(No portion of this ballot is counted.)**

Candidates for	<input checked="" type="checkbox"/> PARTY A	<input checked="" type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	<input type="checkbox"/> Candidate				
Sixth Office	<input type="checkbox"/> Candidate				
Seventh Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 9. Illustration of Guideline No. 3.  
Two party squares marked and no individual candidates marked.  
(No portion of this ballot is counted.)**

Guideline No. 3. Where more than one party square is marked, there is a contradiction as to party markings, and no portion of the ballot is counted.

- (2) A ballot is not counted if two or more ballots are folded together in a manner that indicates they were folded together when deposited in the ballot box by the voter. [Sec. 65.010(a)(2)]
- (3) A ballot is not counted if the ballot is not numbered or not signed by the judge and the judge determines that this ballot was not provided at the polling place. However, this ballot may be counted if the judge determines that it was provided at the polling place. [Secs. 65.010(a)(1), (b)]
- (4) A provisional ballot found by an election worker not contained within the provisional voter affidavit envelope. [T.A.C. §§ 81.172-81.174]

## e. Tallying straight-party vote (See Figures 10, 11 and 12.)

- (1) A straight-party vote is one where the voter marks a party with the intent that all candidates of this party will receive his or her vote. [Sec. 64.004]
- (2) Count a straight-party vote by tallying for the party receiving the vote instead of tallying for each of the party's candidates. However, if a ballot indicates a straight-party vote and a vote for an opponent of one or more of that party's nominees, a vote shall be tallied for the opponent and for each of the party's other nominees whether or not any of those nominees have received individual votes (See Figures 3 and 4 above). [Secs. 65.007(b), (c)]

Candidates for	<input checked="" type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	* <input type="checkbox"/> Candidate				
Sixth Office	* <input type="checkbox"/> Candidate				
Seventh Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 10. Casting a straight-party vote by marking the party square.**  
(The asterisks indicate the candidates for whom the ballot is counted.)

Candidates for	<input type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate			
Fifth Office	<input type="checkbox"/> Candidate				
Sixth Office	<input type="checkbox"/> Candidate				
Seventh Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 11. Casting a straight-party vote by marking individual squares of all nominees of a party.**  
(The asterisks indicate the candidates for whom the ballot is counted.)

Candidates for	<input checked="" type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	* <input type="checkbox"/> Candidate				
Sixth Office	* <input type="checkbox"/> Candidate				
Seventh Office	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

Figure 12. Illustration of Guideline No. 4.

**One party square marked and individual candidates in the party's column also marked. ("Emphasis" Voting) (The asterisks indicate the candidates for whom the ballot is counted.)**

Guideline No. 4. Where only one party square is marked and names of any or all of that party's nominees are marked individually, but no candidate outside that party is marked, the ballot must be counted as a vote for all nominees of that party. Do not count the votes twice. This is often referred to as an "emphasis vote." Make a tally mark for the party.

(3) Write-in Votes.

- (a) *In the primary election for the office of precinct or county chair, a November general election, city council officer elections, an independent or common school district trustee election, special elections for state representative and state senator, or other elections where declaration of write-in is required and the voter writes in the name of a person whose name is not on the list of declared write-in candidates, the vote is not counted. [Secs. 144.006, 146.031(d), 146.054, 146.055, 146.082, 171.0231 Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Education Code; Sec. 285.131, Health and Safety Code; Secs. 326.0431 & 326.0432, Local Government Code; Secs. 36.059, 49.101, 63.0945, Water Code]*

*In a primary election, only count write-ins for declared write-in candidates for party offices, i.e., precinct and county chair. [Sec. 172.112]*

*If only one candidate files for precinct chair (for the ballot or as a write-in), the election for that office is not held and the county chair shall prepare a sign notifying voters that the candidate will be declared elected to the office at the time of the local canvass. An election officer shall post the sign in one or more locations in the polling place. [Sec. 171.0221]*

- (b) In a runoff election, no write-ins are counted. [Sec. 146.002]
- (c) In all elections other than those listed in subsection (a) above, all write-ins are counted. [Sec. 146.001]
- (d) The first time a name is read, enter it on the tally list and also make a tally mark by the name. Each subsequent time the name is read, make a tally mark by the name. [Sec. 65.005(a)]



Candidates for	<input type="checkbox"/> PARTY A	<input checked="" type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> _____
Second Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate			<input type="checkbox"/> _____
Third Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			* <input checked="" type="checkbox"/> <u>John Smith</u>
Fourth Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate			
Fifth Office	* <input checked="" type="checkbox"/> Candidate				
Sixth Office	* <input checked="" type="checkbox"/> Candidate				
Seventh Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate			
Etc.					

**Figure 13. Casting a write-in vote. Illustration of Guideline No. 5**  
(The asterisks indicate the candidates for whom the ballot is counted.)

Guideline No. 5. Where the voter marks straight party but votes for declared write-in, the write-in vote is counted.

Candidates for	<input type="checkbox"/> PARTY A	<input checked="" type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		* <input type="checkbox"/> <u>John Smith</u>
Second Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate			<input type="checkbox"/> _____
Third Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate			<input type="checkbox"/> _____
Fourth Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Fifth Office	<input type="checkbox"/> Candidate				
Sixth Office	<input type="checkbox"/> Candidate				
Seventh Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate			
Etc.					

**Figure 14. Casting a write-in vote. Illustration of Guideline No. 6.**  
(The asterisks indicate the candidates for whom the ballot is counted.)

Guideline No. 6. Where voter fails to properly mark an "X" in the write-in box, the write-in vote may be counted if the presiding judge can determine the intent of the voter. [Secs. 52.070(e), 65.009]

## **SECTION F. HANDLING THE ELECTION RETURNS FOR PAPER BALLOTS**

### **1. Making out the returns.**

- a. After all ballots are counted, the tally list, including separate totals for precincts, must be totaled and signed by the counting officer keeping it. If more than one officer has kept one particular list, each officer signs the list upon finishing. [Sec. 65.005(c)]
- b. Total each tally list to obtain the total number of votes cast for each candidate and/or for or against each proposition. [Sec. 65.005(c)]
- c. The presiding judge must make out and sign all copies of the returns. [Sec. 65.014(c)]
- d. A separate return sheet must be made for each precinct. [Sec. 87.1231]

- e. Election officials should also prepare a summary return sheet to show complete early voting returns for all precincts.
2. Distribution of election returns, poll lists, and tally lists.
  - a. There must be four copies of the returns for each precinct. [Secs. 65.014(c), 87.1231]
  - b. There must be three copies of the poll list (or four copies of the combination form). [Sec. 63.003(b)]
  - c. There must be three originals of the tally list for each precinct. [Secs. 65.004, 87.1231]
3. Five envelopes for distribution of election records are furnished with the supplies.
  - a. Envelope No. 1 is addressed to the presiding officer of the local canvassing authority. [Sec. 66.003(b)(1)]
    - County judge (general election for state and county officers or election held by the county).
    - *County chair (primary election).*
    - Mayor (municipal election).
    - Presiding officer of the governing board (other elections).
  - b. Envelope No. 2 is addressed to the general custodian of election records. [Secs. 66.001, 66.003(b)(2)]
    - County clerk or county elections administrator (general election for state and county officers, election held by the county, *primary election*).
    - City clerk or secretary (municipal election).
    - Secretary of the governing board, or if none, the presiding officer of the governing board (other elections).
  - c. Envelope No. 3 is addressed to the early voting ballot board judge. [Sec. 66.003(b)(3)]
  - d. Envelope No. 4 is addressed to the Voter Registrar. [Sec. 66.003(b)(4)]
  - e. *Envelope No. 5 is addressed to the County Chair.*
4. The records of the election must be distributed as follows:
  - a. Contents of Envelope No. 1. [Sec. 66.022]
    - (1) The original of the election returns of early voting ballots for each precinct.
    - (2) One copy of the tally list for each precinct (from each counting team, if applicable).
  - b. Contents of Envelope No. 2. [Sec. 66.023]
    - (1) A copy of the returns of the early voting ballots for each precinct and the summary return.
    - (2) A copy of the tally list for each precinct (from each counting team, if applicable).
    - (3) The original of the poll list of early voting voters voting by personal appearance and by mail.
    - (4) Any certificates of appointment of poll watchers.
    - (5) Original of Statement of Compensation in some circumstances. [Sec. 32.094]

**NOTE:** The presiding judge must follow the instructions of the political subdivision for delivery of the Statement of Compensation. The time designated for delivery may not be later than 5:00 p.m. of the third day after election day. If the authority responsible for delivering the election supplies does not indicate to whom the Statement of Compensation should be returned, place it in Envelope No. 2 for return to the custodian

of election records. The election judge may also keep a copy of the Statement of Compensation. *For primary elections, place original in Envelope No. 5 to the county chair.*

- c. Contents of Envelope No. 3. [Sec. 66.024]
  - (1) A copy of the returns of early voting ballots for each precinct and the summary return.
  - (2) A copy of the poll list of early voters voting by personal appearance and by mail.
  - (3) A copy of the Statement of Compensation.
- d. Contents of Envelope No. 4. [Sec. 66.0241]
  - (1) The list of registered voters.
  - (2) The registration correction list, if any.
  - (3) Any Statements of Residence completed at the polling place or by mail or copies of identification submitted by mail.
  - (4) List of "ID" Voters.
  - (5) Copy of Combination Form, if used instead of individual affidavits.
- e. *Contents of Envelope No. 5.*
  - *Original of the Statement of Compensation, in a primary election.*
- f. Contents of early voting ballot box. [Sec. 66.025]
  - (1) The voted ballots.
  - (2) A copy of the early voting returns for each precinct and the summary return.
  - (3) A copy of the tally list for each precinct.
  - (4) A copy of the poll list of early voters voting by personal appearance and by mail.
- 5. Manner and time of delivery of records.
  - a. The presiding judge must deliver Envelope No. 1 in person to the presiding officer of the local canvassing authority, or if that officer is unavailable, to the general custodian of election records. [Sec. 66.051(a)]
  - b. The presiding judge must deliver Envelope No. 2 and Ballot Box No. 3, the rejected ballot envelope, the jacket envelopes containing the carrier envelopes and applications, and all unused supplies in person to the general custodian of election records. [Sec. 66.051(b)]
  - c. The presiding judge retains Envelope No. 3. [Sec. 66.051(c)]
  - d. The presiding judge must deliver Envelope No. 4 in person to the voter registrar, or if that officer is unavailable, to the general custodian of election records for later delivery to the voter registrar. [Sec. 66.051(d)]
  - e. The judge delivers the keys to the Ballot Box to:
    - (1) The sheriff for an election ordered by the governor or a county authority or *for a primary election*, unless the sheriff is on the ballot, in which case the keys are delivered to the county judge. If both the sheriff and the county judge are on the ballot, the keys are delivered to the county auditor, or, if there is no county auditor, to a member of the commissioners court, named by the court, who is not on the ballot. [Sec. 66.060(a)(1)]

- (2) The chief of police or city marshal for an election ordered by a city authority. [Sec. 66.060(a)(2)]
- (3) The constable of the justice precinct in which the governing body's office is located, or if the constable's office is vacant, to the sheriff of the county, for an election ordered by a political subdivision other than a county or city. [Sec. 66.060(a)(3)]

f. *Envelope No. 5 is delivered to the County Chair.*

g. Time.

- (1) Records must be delivered to the appropriate authority immediately after the returns are completed. [Secs. 66.053(a), 87.063]
- (2) If the judge determines that the ballots will not be counted in time to permit delivery of the records by 2:00 a.m. of the day following the election, he or she must notify the general custodian of election records by telephone between midnight of election day and 1:00 a.m. of the following day of:
  - The vote totals tallied for each candidate and for and against each measure at the time of notification.
  - The expected time of finishing the count. [Secs. 66.053(b), 87.063]
- (3) In every election, the early voting ballot board records must be delivered to the appropriate authorities not later than 24 hours after the polls close. [Secs. 66.053(c), 87.063]

6. At the time the early voting ballot board records are delivered, supplies shall be returned to the authority responsible for providing such supplies. The presiding judge shall follow the instructions of such authority regarding the storage or return of empty ballot boxes and their keys and other equipment. [Sec. 87.123]

#### **SECTION G. REPORTING EARLY VOTES**

- 1. The presiding judge of the Board must deliver the counted ballots, the early voting election returns, other early voting election records, and ballot box keys to the appropriate authorities. [Sec. 87.063]
- 2. The early voting totals must reflect the number of early votes for each candidate or measure by election precinct. [Secs. 67.004(c), 87.1231]

## **CHAPTER 4**

### **EXAMINING, PREPARING, AND COUNTING VOTED OPTICAL SCAN BALLOTS**

#### **SECTION A. PROCESSING BALLOTS COUNTED AT CENTRAL COUNTING STATION**

**NOTE:** If the ballots are to be delivered to the central counting station before the time the polls are closed on election day, the intervals during the day at which the ballots are to be delivered must be stated in the resolution, order, or other official action authorizing the early deliveries. [Sec. 127.124]

1. On the direction of the presiding judge, the early voting ballot board shall deliver to the central counting station the container for the early voting electronic system ballots that are to be counted by automatic tabulating equipment at a central counting station. The board shall make the delivery without opening the container. [Sec. 87.101]
2. The early voting electronic system ballots counted at a central counting station shall be tabulated separately from the ballots cast at precinct polling places and shall be separately reported on returns. [Sec. 87.103]
3. The general custodian of records shall post a guard to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the central counting station. [Sec. 127.1232]

#### **SECTION B. DELIVERY OF BALLOT BOX.**

1. Poll watchers may accompany election officials delivering ballot container after optical scan mail ballots are qualified. [Sec. 33.060]

If delivery is made in a vehicle, it is sufficient to allow the watchers to follow in a different vehicle and to drive in such a manner that the watchers are able to keep the delivery vehicle in sight.

2. The officers must present the ballot box to the presiding judge of the counting station or his or her designee.
3. The delivering officers must then exchange the ballot box for a signed receipt. [Sec. 127.068(a)]
4. The rejected ballot envelopes, jacket envelopes containing the carrier envelopes, and any unused supplies are returned to the general custodian of election records.

## CHAPTER 5

### RECONVENING EARLY VOTING BALLOT BOARD

The early voting ballot board must reconvene after the election to review and qualify provisional ballots and to qualify ballots that were cast from outside the United States on or before election day and that are received by the fifth day after the election.

#### SECTION A. ESTABLISHING THE EARLY VOTING BALLOT BOARD TO REVIEW PROVISIONAL BALLOTS

The authority appointing the early voting ballot board may determine which members of the board will review and count the provisional ballots. The entire ballot board is not required to be present. A minimum of three members of the board is required to conduct the review.

1. Convening Early Voting Ballot Board.
  - a. The presiding judge of the early voting ballot board may convene the board as soon as practicable after the voter registrar has completed the review of the provisional ballots, **or if the voter registrar reviews the provisional ballots in “batches” and releases completed “batches” sequentially, the presiding judge may convene the board as soon as practicable after the voter registrar has completed one or more “batches.”** The judge must post a notice on the bulletin board used for posting notices of meetings of the governing body ordering the election no later than 24 hours before each time the board is scheduled to meet. The board may also convene while the voter registrar continues the review.
  - b. The early voting ballot board must complete its review of provisional ballots not later than the 7th day after election day.
2. Delivery of Materials To Early Voting Ballot Board.
  - a. The board should obtain from the authority conducting the election a package of supplies, including the:
    - (1) Return sheets;
    - (2) Tally sheets; and
    - (3) Envelopes for Accepted and Rejected Ballots.
  - b. The general custodian will deliver to the early voting ballot board the Lists of Provisional Voters from each precinct.
3. Delivery of Provisional Ballots.
  - a. The early voting ballot board presiding judge shall take receipt of (1) the provisional ballots directly from the voter registrar or the custodian of election records and (2) List of List of Provisional Voters Who Presented Proper Identification to Voter Registrar at a time and place to be determined by the presiding judge and; [Sec. 65.0541]
  - b. The presiding judge completes the Verification of Provisional Ballots and Serial Numbers Form by signing at the time of receipt that the seal(s) were intact, the serial numbers of the seal(s) were accurately reflected, and the number of provisional ballots received.
4. Review of Provisional Ballots.

The early voting ballot board shall review both the election judge's and the voter registrar's notation on each Provisional Ballot Affidavit Envelope to determine whether or not the ballot should be counted as indicated below.

## a. Provisional ballots to be counted:

- (1) The ballot shall be counted if the voter failed to submit an acceptable form of photo identification and did not have a reasonable impediment or difficulty to doing so (including if the voter did not provide a form of supporting documentation in connection with a reasonable impediment declaration) at the polling place, but the voter registrar indicated the voter presented an acceptable form of photo identification in person at the registrar's office within six calendar days after the date of the election and the voter was otherwise eligible to vote in the election.
- (2) The ballot shall be counted if the voter failed to submit an acceptable form of photo identification and did not have a reasonable impediment or difficulty to doing so (including if the voter did not provide a form of supporting documentation in connection with a reasonable impediment declaration) at the polling place, but the voter registrar indicated on the Provisional Ballot Affidavit Envelope that the voter applied for and received the disability exemption by the sixth day after election day and the voter was otherwise eligible to vote in the election
- (3) The ballot shall be counted if the voter failed to submit an acceptable form of photo identification and did not have a reasonable impediment or difficulty to doing so (including if the voter did not provide a form of supporting documentation in connection with a reasonable impediment declaration) at the polling place, but the voter registrar indicated the voter completed one of the two curing affidavits (consistent religious objection to photographs or identification destroyed or inability to access acceptable photo identification due to declared natural disaster) no later than the sixth day after election day.
- (4) If the election judge indicated that the reason for casting a provisional ballot was that the voter appeared on the list of registered voters as having cast a ballot by mail, and the voter claimed that he never received the mail ballot, or would like to cancel his or her mail ballot, the provisional ballot shall be counted if the voter's mail ballot has not already been received.
- (5) If the voter registrar indicated that the provisional voter is registered to vote in the territory holding the election, the ballot shall be counted.
- (6) If the voter registrar indicated that the provisional voter is registered to vote, but was erroneously listed in the wrong precinct, the ballot shall be counted.
- (7) If the voter was erroneously removed from the voter registration list and is otherwise qualified to vote, the ballot shall be counted.
- (8) The voter registrar has information in the office that the voter did complete an application, and the voter is otherwise qualified, the ballot shall be counted. (For example, evidence that the voter submitted an application at a DPS office or via a volunteer deputy registrar.)

## b. Provisional ballots not to be counted:

- (1) If the voter failed to submit an acceptable form of photo identification and did not have a reasonable impediment or difficulty to doing so (including if the voter did not provide a form of supporting documentation in connection with a reasonable impediment declaration) at the polling place, and the voter registrar noted that the voter did not (1) present an acceptable form of photo identification in person at the registrar's office within six calendar days after the date of the election; (2) complete one of the curing affidavits (consistent religious objection to photographs or identification destroyed or inability to access acceptable photo identification due to declared natural disaster), or (3) apply for and receive a disability exemption by the sixth day after election day, then the ballot shall not be counted.



- (2) If the election judge indicated that a voter with a permanent disability exemption to providing an acceptable form of photo identification did not submit the registration certificate at the polling place, and the voter registrar notes that the voter failed to (1) present their registration certificate with exemption, (2) present a form of acceptable photo identification, or (3) apply for and receive a permanent disability exemption by the sixth day after election day, the ballot shall not be counted. If a voter voted provisionally due to having an outstanding mail ballot that has not yet been cancelled, the provisional ballot shall not be counted if the provisional voter has already voted.
- (3) If the voter registrar indicated that the provisional voter is not registered to vote in the territory holding the election or the registration was not effective in time for the election, the ballot shall not be counted.
- (4) If the voter registrar indicated that the provisional voter is registered to vote at a different precinct other than the one the voter voted in, the ballot shall not be counted.
- (5) If the election judge indicated that the voter was on the list of registered voters, but the voter's registered residence address is outside the political subdivision, the ballot shall not be counted.
- (6) If the voter registrar indicated that an incomplete application was received from the provisional voter but the required additional information was not returned, the ballot shall not be counted.

5. Disposition of Accepted or Rejected Ballots.

- a. The presiding judge shall indicate the disposition of each ballot on the provisional voter affidavit envelope.
- b. The presiding judge shall also indicate the disposition of each ballot on the List of Provisional Voters for that precinct.
- c. The ballots to be counted shall be removed from their provisional ballot envelopes (which are sealed in a secrecy envelope). After at least 10 secrecy envelopes have been removed from the provisional ballot envelopes and placed in a separate container, the secrecy envelopes are opened, and the ballots are counted under the normal procedure for counting ballots by mail in an election either by hand counting or by central counting station [See Chapters 3 and 4]. The presiding judge of the early voting ballot board or central counting station shall complete a return sheet of the votes and record them by precinct. The Provisional Voter Affidavit Envelopes are placed in the Envelope for Accepted Voters and delivered to the general custodian of election records.
- d. The Provisional Voter Affidavits Envelopes that are not counted are placed in the Envelope for Rejected Provisional Ballots and delivered to the general custodian of election records.

6. Counting Paper Ballot Provisional Ballots.

- a. See Chapters 3 and 4 for counting rules.
- b. Once counted, the provisional ballots shall be re-locked and returned to the custodian of election records. The key shall be delivered to the custodian of the key.
- c. If a DRE system is used for provisional voting, the entity conducting the election will direct how provisional ballots are processed.

7. Counting of Provisional Ballots Electronically (optical scan).

- a. The manager of the central counting station shall decide whether the ballot board shall manually count the ballots with the totals manually added to the computer count for a canvass total or whether the central counting station shall reconvene.



- b. The manager shall send notice to the presiding judge of the ballot board prior to reconvening the board as to whether the ballots are to be counted manually by the board or whether the ballots are to be prepared for delivery to the central counting station.
- c. If the ballots are to be counted by the central counting station, the manager must post notice at least 24 hours prior to reconvening the central counting station. Section 1.006 does not apply.
- d. A ballot transmittal form must be completed by the presiding judge of the ballot board. The transmittal form will accompany the accepted provisional ballots.
- e. Prior to the beginning of the count at a central counting station, the manager shall run the required second logic and accuracy test using the same test deck as on Election Day. After the count is complete, the manager shall run the required third logic and accuracy test. If the test is not successful, the count is void.
- f. The central counting manager may add the provisional ballots to the original returns by hand in order to provide one complete return sheet, may enter the provisional ballots directly on the electronic voting system to have one final electronic return sheet or may provide a separate return sheet with just provisional ballot vote totals. The return sheets are placed in Envelope No. 2 and delivered to the custodian of election records.
- g. The counted provisional ballots and other election materials are returned to the custodian of election records and retained for the appropriate preservation period.

**NOTE:** Since provisional ballots will probably be processed and counted at the same time as the late early voting by mail ballots, additional procedures relating to late ballots pursuant to T.A.C. Sec. 81.37 may also apply.

8. Notice to Provisional Voters.

Not later than the 10th day after the local canvass, the early voting ballot board's presiding judge shall deliver written notice regarding whether the provisional ballot was counted to the provisional voter, and if the ballot was not counted, the reason the ballot was not counted. The presiding judge shall use the information provided on the affidavit to obtain the proper mailing address for the voter and the final resolution of the provisional ballot.

9. Distribution of Provisional Voting Records.

- a. Custodian of election records receives:
  - (1) Lists of Provisional Voters;
  - (2) Return sheets;
  - (3) Tally Sheets;
  - (4) Envelopes for Accepted and Rejected Provisional Ballot Affidavit Envelopes;
  - (5) Counted Ballots; and
  - (6) Verification of Provisional Ballots and Serial Numbers.
- b. Custodian of the key receives the key to the ballot box after it has been locked.
- c. Presiding officer of the canvassing authority receives:
  - (1) Return sheets; and
  - (2) Tally Sheets.

## **SECTION B. RECONVENING FOR QUALIFYING LATE EARLY BALLOTS BY MAIL**

1. Requirements for ballots to be counted late.

The Board must reconvene to count mail ballots which were:

- a. cast from outside the United States;
- b. placed in delivery before the polls closed; and
- c. which arrived not later than the 5th day after election day. [Sec. 86.007(d)]

**NOTE:** If the 5<sup>th</sup> day falls on a weekend day, federal or state holiday, this deadline is extended to the next regular business day.

2. When should the board reconvene?

On the 9th day after election day or earlier, if the early voting clerk can determine that all ballots cast from outside the United States have been received. [Sec. 87.125]. **NEW LAW:** Senate Bill 1703, (84th Legislature)

3. The Carrier Envelope must be:

- a. timely submitted;
- b. properly addressed with postage (no postage is required for FPCA carrier envelopes);
- c. sent from an address outside the United States; and
- d. bear a cancellation mark from a postal service before the polls close or a receipt mark from a common or contract carrier indicating the ballot was received before the polls closed.

**NOTE:** The carrier envelope will be presumed timely submitted if there is no cancellation mark or receipt mark and if other requirements are met. [Sec. 86.007(f)]

4. Additional general provisions.

- a. The presiding judge shall notify the early voting clerk as to the time and place where the board will reconvene. The notice must be made in time so the early voting clerk may give proper notice of the delivery. The early voting clerk must post notice of delivery of jacket envelopes and any other accompanying papers to the early voting ballot board at least 24 hours prior to the delivery. The notice shall be posted at the main early voting polling place. Section 1.006 does not apply.
- b. The presiding judge shall send notice to the custodian of the key and the custodian of election records to redeliver the ballot box containing the counted ballots and the key to the box. After the late ballots have been counted, the presiding judge shall lock the late counted ballots in the ballot box. The presiding judge shall deliver the ballot box to the general custodian of election records and the key to the ballot box to the custodian of the key.
- c. Poll watchers are entitled to be present.
- d. If all mail ballots were received by the close of voting on election day or no ballots were received by the appropriate deadline for the election, the early voting clerk shall certify that fact and deliver the certification to the canvassing board before they convene to canvass the votes. [Sec. 87.125(a)]

5. Special provisions for paper ballots.

- a. Once the ballots have been qualified, the presiding judge shall use the regular method of counting ballots by keeping three new tally sheets, counting by precinct, and having at least two members per tally team. [Ch. 65, Secs. 87.062, 87.103; T.A.C. § 81.37(b)]
  - b. Once the board has counted all the ballots, an original and three copies of the return sheet shall be prepared.
  - c. The distribution of the tally sheets and return sheets shall be made in accordance with the Texas Election Code, Subchapter B, Chapter 66.
  - d. The canvassing board shall add the returns from both early voting return sheets when canvassing the vote.
6. Provisions for Electronic Voting Systems. [T.A.C. §§ 81.37(c), 87.103]
- a. The manager of the central counting station shall decide whether the ballot board shall manually count the ballots with the totals manually added to the computer count for a canvass total or whether the central counting station shall reconvene.
  - b. The manager shall send notice to the presiding judge of the ballot board prior to reconvening the board as to whether the ballots are to be counted manually by the board or whether the ballots are to be prepared for delivery to the central counting station.
  - c. If the ballots are to be counted by the central counting station, the manager must post notice at least 24 hours prior to reconvening the central counting station. Section 1.006 does not apply.
  - d. A ballot transmittal form must be completed by the presiding judge of the ballot board. The transmittal form will accompany the ballots qualified.
  - e. The manager must order a 2nd test to be conducted prior to the count. The test must be successful.
  - f. Poll watchers are entitled to be present.
  - g. After the 2nd test is successful, the unofficial election results preserved by electronic means shall be loaded in the tabulating equipment.
  - h. The tabulation supervisor shall print a status report before the count is to begin. This status report shall be compared with the report run on election night. If the two status reports do not match, the electronic ballots must be counted by hand and the total manually added to the returns printed on election night.
  - i. If the status reports match, the tabulation supervisor may order the count to begin. The precinct returns from these counts may be included with the original precinct counts. The tabulation supervisor does not need to keep the precinct-by-precinct results of the late ballots separate from other early voted ballots.
  - j. Once the ballots have been counted, results shall be prepared in the regular manner. The manager shall prepare a certification and attach it to the returns, then place both in envelope #1 to be delivered to the presiding officer of the canvassing board indicating that the results supersede any returns printed prior to the reconvening of the central counting station after election day.
  - k. After the results have been prepared, a successful 3rd test must be performed.
  - l. The results, ballots, and distribution of ballots and all records shall be made in the regular manner.